

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

CRUZ BAYLON and MARIA CARMEN BAYLON,

Plaintiffs,

vs.

Civ. No. 12-52 KG/KBM

WELLS FARGO BANK, N.A.; and
MCCARTHY & HOLTHUS, LLP
d/b/a MCCARTHY, HOLTHUS & LEVINE,

Defendants.

ORDER

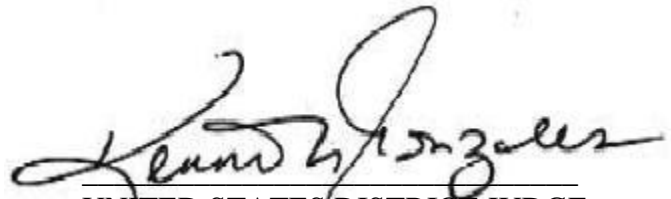
This matter comes before the Court on Defendant Wells Fargo Bank, N.A.'s (Wells Fargo) Motion for Clarification Regarding November 20, 2013 Discovery Order (Motion for Clarification). (Doc. 247). On November 20, 2013, the Court ordered Wells Fargo to answer Interrogatory No. 8 of Plaintiffs' first set of written discovery, as limited by Plaintiffs and Chief United States Magistrate Judge Karen B. Molzen, by January 31, 2014. (Doc. 242). Wells Fargo now moves to clarify whether the Court's November 20, 2013, discovery order overrules Judge Molzen's September 18, 2013, Order granting Defendants' motions to stay discovery by staying discovery "until resolution of the pending motions for summary judgment and the Rule 72 objections in this case." (Doc. 215). Wells Fargo's counsel "certifies that he has conferred with Plaintiffs' counsel about this motion and the motion is unopposed to the extent that Plaintiffs agree the Discovery Order conflicts with the Stay Order and further clarification is needed." (Doc. 247) at 1.

At the time Defendants filed their motions to stay, Defendants had two pending motions for summary judgment. *See* (Docs. 160 and 168) (motions to stay discovery); (Docs. 101 and

120) (pending motions for summary judgment). Since then, Wells Fargo filed another motion for summary judgment and Plaintiffs have filed two motions for summary judgment. *See* (Docs. 208, 210, 212). There is no indication that discovery is necessary to rule on these three additional motions for summary judgment. There is also no indication that deferring the January 31, 2014, discovery deadline until after the Court rules on all five motions for summary judgment will prejudice Plaintiffs, especially since the Court has not set a trial date. Consequently, in the interest of efficient case management, Judge Molzen's September 18, 2013, Order staying discovery will remain in effect.¹

IT IS ORDERED that

1. Wells Fargo Bank, N.A.'s Motion for Clarification Regarding November 20, 2013 Discovery Order (Doc. 247) is granted;
2. Judge Molzen's September 18, 2013, Order remains in effect; and
2. the January 31, 2014, discovery deadline ordered by the Court on November 20, 2013, is deferred pending resolution of all five of the pending motions for summary judgment and the remaining Rule 72 objections.



UNITED STATES DISTRICT JUDGE

¹ Of course, Plaintiffs are permitted to file a motion to lift the stay of discovery, if appropriate.